D.B. CIVIL CONTEMPT PETITION NO. 152/06
(VINOD KUMAR JAIN VS. BHAGWATI PRASAD & ORS.)

Date : 8.11.2006

HON'BLE MR. RAJESH BALIA,J.
HON'BLE MR. GOPAL KRISHAN VYAS,J.

Mr. Pushpendra Singh, for the petitioner.
Mr. P.R.Mehta)
Mr.Vineet Kumar Mathur) for the respondents.

Heard.

The compliance report has been submitted and it has been stated in it that the applicant has been appointed/reinstated in service of NCUI and he has also been paid emoluments up to the date of judgment. However from the date of judgment & until passing of the order giving him appointment, emoluments have not been paid since January 2006 until date of appointment.

The fact is that the petitioner's termination was quashed by the judgment for non-compliance of which this application has been moved. The petitioner was continuing in service firstly by way of the interim order passed during the pendency of the writ petition before learned Single Judge and thereafter the order passed during the pendency of the Special Appeal.

The position was further clarified by order dated 22.3.05 passed in Special Appeal recording that the respondents have paid remuneration to the petitioner for the period, during which he remained on duty under orders of the court pending writ petition. In the special appeal order was passed by way of interim relief not to relieve him if not already relieved. Counsel appears for respondent No.3 stated that on 27.3.2000 that petitioner is still continuing with them. Thus, the court opined that it has to be taken that the petitioner was not relieved on the date the order was passed by Division Bench in Special Appeal decided on 5.1.04.

Thus the record shows that the petitioner was continuing in service until the date of the decision of Special Appeal and since Special Appeal was decided in favour of the petitioner and the impugned order dated 23/24.1.04 was quashed, in pursuance of which petitioner's services were terminated, the petitioner continued in service through out the period. The stand taken by the respondents now that the petitioner was not entitled for emoluments w.e.f. Judgment until the passing of the order giving him appointment, notwithstanding of quashing the order

cannot be justified.

Faced with this obvious situation learned counsel appearing for the contemnor stated that the payment for the period from the date of judgment until the appointment shall be paid within six weeks.

In view of the aforesaid submissions, the contempt petition is not required to be continued. Notices are hereby discharged. However, in case the statement given by learned counsel for the respondents is not given effect to the applicant shall be free to move before this court,for reviving this application. This is subject to final out come of the SLP pending before the Supreme Court, as imposed by learned counsel for the respondent.

Put up after six weeks.

(GOPAL KRISHAN VYAS),J. **(RAJESH BALIA),J.**

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